IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY NINTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 12289 of 1999

Between:

Shaik Mustafa S/o Rahmatullah
R/o 15-15, Subhash Nagar, Yellandu, Khammam District.

..... PETITIONER

AND

1 Singareni Collieries Co. Ltd., Rep. by its Managing Director, Kothagudem, Khammam District.

2 The Chief General Manager (Projects) Singareni Collieries Co. Ltd., Yellandu Area, Yellandu, Khammam District.

3 The Collieries Manager, JK-5 Opencast, Singareni Collieries Co. Ltd., Yellandu Area, Yellandu, Khammam Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order direction or writ particularly one in the nature of writ of Mandamus (1) compelling the respondents herein to extend the same benefit as has been extended to Neelam Sambaiah in Office Order No. P(PM)4/4193/444 dt 19-2-97 of the Singareni Collieries Company Ltd., (2) declare the action of the respondents in not extending the same benefit as has been extended to Neelam Sambaiah in O.O.No.P(PM)4/4193/444 dt 19-2-97 of the Singareni Collieries Co Ltd., as arbitrary and offends Article 14, 16 and 21 of the Constitution of India; (3) to declare the proceedings No.YCP/31E/554

dated 15-4-99 (not served on the petitioner) imposing the punishment of dismissal from service is illegal, arbitrary and without jurisdiction and consequently direct the respondents herein to continue the petitioner as E.P. Operator or in any other category and grant such other relief or reliefs as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.G.VIDYASAGAR

Counsel for the Respondents: MR.K.SRINIVASAMURTHY

The Court made the following :

ORDER

Heard both sides.

The petitioner herein, who has been working as driver with the respondents, filed this Writ Petition *inter alia* seeking to assail the impugned order removing him from service on the ground of not holding valid driving licence. Further the main relief is sought to be raised on the ground that similarly placed such person viz., Neelam Sambaiah was re-employed on production of valid driving licence. Therefore, the petitioner's case also be considered on the same lines.

The case of the petitioner is that he was initially appointed on 10-8-1989. Subsequently he possessed driving licence. Thereafter, the respondents noticed that the driving licence produced by the petitioner is not correct and therefore, notice was issued which was followed by a charge sheet, dated 27-06-1997. Thereafter, an enquiry was conducted where under he was removed from service on 15-4-1999. It is the further case of the petitioner that he is holding valid driving licence and therefore, his case has to be considered especially in similarly placed such persons.

In the counter affidavit filed on behalf of the respondents, in para 13, it is stated that no doubt it is true that Neelam Sambaiah's licence was found to be bogus and he was reverted to his substantive post as per

order, dated 17-09-1994 and after three years when the vancancy arose, his case was considered and appointed to the post of E.P. Operator on production of valid licence. It is stated in the very same para by the respondent to the effect that it is open for the petitioner to wait for future vacancies depending upon the fact that if he produces a valid heavy vehicle licence, his case will be considered along with others.

Considering the submissions made and especially the submission made in the counter affidavit in the aforesaid para 13 to the effect that the petitioner's case will be considered on production of valid heavy vehicle licence, it is not necessary to go into the merits of the claims as sought to be raised by both sides. It would suffice in the interest of justice to direct the respondents to consider the petitioner's case for the vacancy which arises hereafter for making fresh appointment subject to production of valid heavy vehicle licence.

Accordingly, the Writ petition is disposed of directing the respondents to consider the petitioner's case for the vacancy which arises hereafter for making fresh appointment subject to production of valid heavy vehicle licence. No costs.

29-03-2005

Hsd

Asst. Registrar

To

1 The Managing Director, Singareni Collieries Co. Ltd., Kothagudem, Khammam District.

2 The Chief General Manager (Projects) Singareni Collieries Co. Ltd., Yellandu Area, Yellandu, Khammam District.

3 The Collieries Manager, JK-5 Opencast, Singareni Collieries Co. Ltd., Yellandu Area, Yellandu, Khammam Dist

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